

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION**

In Re:

Gary G DeRosa,

Debtor.

Case No. 8-19-75395-reg

Chapter 11

NOTICE OF MOTION

Upon the annexed Motion for Relief of Wesley T. Kozeny, Esq., dated October 7, 2019 and the exhibits annexed thereto, VW Credit, Inc. as servicer for VW Credit Leasing, LTD, a secured creditor, will move this court before the Hon. Robert E. Grossman, United States Bankruptcy Judge, on the 6th day of November, 2019 at 01:30 PM o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, at the courthouse located at 290 Federal Plaza, Central Islip, NY 11722 for an order pursuant to 362(d)(1) & (2) of the Bankruptcy Code modifying the automatic stay so that VW Credit, Inc. as servicer for VW Credit Leasing, LTD, as secured creditor, can exercise all of its rights and remedies with respect to its security interest in the collateral known as 2017 Audi A7 (V.I.N. WAUW2AFC0HN030915), on the grounds that (a) VW Credit, Inc. as servicer for VW Credit Leasing, LTD is not adequately protected; and (b) for such other and further relief as this Court deems just and proper.

Dated: October 7, 2019
St. Louis, Missouri

Kozeny & McCubbin, L.C. LLC

/s/ Wesley T. Kozeny
By: Sabita Hajaree Ramsaran, Esq.
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United States Trustee
U.S. Trustee
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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION**

In Re:

Gary G DeRosa,

Debtor.

**MOTION FOR RELIEF FROM
AUTOMATIC STAY PURSUANT TO
11 U.S.C. SECTION 362(d)(1) & (2)**

Case No. 8-19-75395-reg

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VW Credit, Inc. as servicer for VW Credit Leasing, LTD, a secured creditor in the above-captioned bankruptcy case, by its counsel, Kozeny & McCubbin, L.C. LLC, as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1) & (2), or, in the alternative, for adequate protection, states the following as grounds therefor:

1. On August 1, 2019, the debtor, above-named, filed a voluntary petition in Bankruptcy under Title 11, Chapter 11, U.S.C., in the United States Bankruptcy Court, for the Eastern District of New York.
2. The Court has jurisdiction to entertain this motion under 28 U.S.C. Section 157.
3. VW Credit, Inc. as servicer for VW Credit Leasing, LTD is a secured creditor herein and the holder of a duly perfected security interest in one (1) 2017 Audi A7 (V.I.N. WAUW2AFC0HN030915) (hereinafter “**Collateral**”) leased by the debtor, Gary G Derosa.
4. Pursuant to 11 U.S.C. Section 362, upon the commencement of the instant bankruptcy case, VW Credit, Inc. as servicer for VW Credit Leasing, LTD is stayed from taking any action against the debtor to liquidate the collateral.
5. On September 14, 2016, the debtor entered into a Motor Vehicle Lease Agreement - Closed End (hereinafter “Lease”) with Audi of Huntington (hereinafter “Dealer”) for the lease of the collateral. Thereafter, the Lease, pursuant to its terms,

was duly assigned by the dealer to VW Credit, Inc. as servicer for VW Credit Leasing, LTD. A copy of the Lease as evidence of the perfected lien is annexed hereto and referred to as Exhibit "A" and made a part hereof.

6. The Lease on the collateral matured on September 14, 2019 with no delinquent payments due. The Movant is in possession of the collateral as of August 17, 2019. The residual purchase option amount for the collateral is \$42,775.33.

(**NOTE:** The foregoing does not represent any amount which may be due for costs and attorneys' fees as may be allowed by the Court)

7. VW Credit, Inc. as servicer for VW Credit Leasing, LTD has ascertained that the wholesale value of its security is \$38,600.00 based on estimated value of the collateral in clean retail condition.
8. It is respectfully asserted that VW Credit, Inc. as servicer for VW Credit Leasing, LTD interest in the collateral will not be adequately protected if the automatic stay is allowed to remain in effect. VW Credit, Inc. as servicer for VW Credit Leasing, LTD is seeking relief from the automatic stay to the extent that one exists.
9. Accordingly, sufficient cause exists to grant VW Credit, Inc. as servicer for VW Credit Leasing, LTD relief from the automatic stay herein which includes, but is not limited to, the following:
 - (a) The security interest of VW Credit, Inc. as servicer for VW Credit Leasing, LTD with respect to the collateral is not adequately protected as envisioned under 11 U.S.C. Section 361.
 - (b) The collateral is not necessary for an effective organization of a bankruptcy estate.
10. No prior application for the relief requested herein has been made.

WHEREFORE, VW Credit, Inc. as servicer for VW Credit Leasing, LTD respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. Section 362(d)(1) & (2):

(a) granting VW Credit, Inc. as servicer for VW Credit Leasing, LTD relief from automatic stay in order to dispose of its collateral, and for such other and further relief as to the Court may seem just and proper.

Date: October 7, 2019
St. Louis, Missouri

VW Credit, Inc. as servicer for VW
Credit Leasing, LTD

/s/ Wesley T. Kozeny
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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that a copy of the Notice of Motion, Motion for Relief and a copy of these pleadings were mailed by U.S. First Class Mail on October 7, 2019 to the parties listed below:

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Respectfully submitted,

/s/ Wesley T. Kozeny, Esq.
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**ORDER LIFTING THE
AUTOMATIC STAY**

Upon reading and filing the Notice of Motion dated October 7, 2019, the Motion for Relief from Automatic Stay of Wesley T. Kozeny, Esq., dated October 7, 2019 and the exhibits annexed thereto on behalf of VW Credit, Inc. as servicer for VW Credit Leasing, LTD, by its attorney Kozeny & McCubbin, L.C. LLC, for an Order pursuant to 11 U.S.C. 362(d)(1) & (2) granting relief from the automatic stay to exercise all of its rights and remedies with respect to its security interest in the collateral known as 2017 Audi A7 (V.I.N. WAUW2AFC0HN030915), (the "Collateral"); and there being no opposition thereto by the United States Trustee or Stan Y Yang, Trustee, and there being no opposition by the Debtor, or his attorney, and sufficient cause appearing therefore; it is

ORDERED, that automatic stay is hereby modified pursuant to 11 U.S.C. 362(d) (1) & (2) and to allow VW Credit, Inc. as servicer for VW Credit Leasing, LTD to exercise all of its rights and remedies with respect to its security interest in the Collateral, and it is further,

ORDERED, that the movant shall immediately provide an accounting to the trustee of any surplus monies realized.